



National Mining Association  
Foundation For America's Future

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April 30, 2002

The Honorable Marianne Lamont Horinko  
Assistant Administrator for the Office of Solid Waste and Emergency Response  
U.S. Environmental Protection Agency  
Ariel Rios Building, Mail Code 5101  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Dear Assistant Administrator Horinko:

On behalf of the National Mining Association ("NMA") and its members, I am writing to request a brief meeting with you to express our views regarding the United States Environmental Protection Agency's ("EPA's" or the "Agency") upcoming rulemaking on the Resource Conservation and Recovery Act ("RCRA") regulatory definition of solid waste. NMA and its members share the commitment shown by you and many others at the Agency to removing regulatory roadblocks to recycling and resource conservation. We believe that the upcoming rulemaking offers an excellent opportunity to do just that.

The primary mining and mineral processing industry represented by NMA has traditionally conducted its production operations so as to maximize the values of the various materials produced in its operations. Numerous materials produced from mineral processing industry operations are used for their mineral, acid, water or other values in subsequent primary metals production industry operations. In the wake of *Association of Battery Recyclers v. EPA*, 208 F.3d 1047 (D.C. Cir. 2000), a case successfully brought by NMA, EPA is obligated to craft a regulatory definition of solid waste for the mining and mineral processing industry that recognizes that these materials, and the primary metal production operations in which they are used, are not subject to RCRA. These materials are not "abandoned, disposed of or thrown away", and therefore are not solid wastes subject to EPA's RCRA jurisdiction. The reuse of these materials in ongoing production operations by the primary metals production industry is consistent with and furthers RCRA's goal of resource conservation.

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We met with OSW staff on April 17 and shared our interests and concerns with them. We left that meeting encouraged by what we heard, and would like to share our thoughts with you. We ask for no more than a half-hour of your time prior to the week of May 20. It is our hope that you can accommodate our request. I would be most grateful if your office would contact me (202/463-9782) regarding possible meeting times.

Again, thank you for your consideration of this request. I look forward to hearing from your staff soon.

Sincerely yours,



Roderick T. Dwyer

cc Matthew A. Straus, EPA OSWER